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TO: Board of Directors

DATE: February 12, 2009

**FROM: Celia McAdam, Executive Director
Stan Tidman, Senior Planner**

**SUBJECT: PLACER PARKWAY CORRIDOR PRESERVATION TIER 1
ENVIRONMENTAL PROCESS: NEXT STEPS**

Action Requested

Authorize the Executive Director to take the following actions related to the proposed project's Tier 1 Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and the modified National Environmental Protection Act (NEPA) Section 404 process:

1. Conclude work on the Tier 1 EIR under the California Environmental Quality Act (CEQA) independently of the federal NEPA (EIS) process.
2. Continue to work with the regulatory agencies to resolve the current stalemate over the corridor most likely to contain the Least Environmentally Damaging Practicable Alternative (LEDPA) in a timely and cost-effective fashion.
3. Organize and attend a followup meeting in Washington, D.C. with headquarters-level regulatory agency staff to resolve the LEDPA concurrence dispute.

Background

In 2003, work began to identify corridor alignment alternatives for the Placer Parkway Corridor Preservation Project's Tier 1 EIS/EIR. An underlying project planning goal was to avoid or minimize effects to biological resources, particularly to aquatic species and habitats. After an extensive technical and public outreach program, the Draft Tier 1 EIS/EIR was released for public comment in June 2007 and public hearings in August 2007. At Board direction, a Partially Revised Draft (PRD) Tier 1 EIS/EIR was released, last month, to address concerns about the certainty of project's access and no-development buffer. The comment period closes in mid-March. The Final Tier 1 EIS/EIR is on schedule for release in summer 2009.

Later in 2003, a parallel process began with the federal regulatory agencies, including the U.S. Army Corps of Engineers (ACOE), U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (FWS), and others. This early consultation resulted in agreement to complete a modified NEPA/404 process, with a goal of ensuring that Tier 1 decisions reflect careful consideration of the Clean Water Act guidelines to eliminate the need to re-visit Tier 1 decisions during the later Tier 2 (construction-level) permitting process.

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The modified NEPA/404 process stalled in August 2008 after the ACOE and EPA did not concur with a June 2008 concurrence request that Alternative #5 was the corridor most likely to contain the LEDPA.

The regulatory agencies believe it is Alternative #1, the southernmost alignment. Two meetings, with higher-level management staff, have not resolved the dispute. A summary of the most recent meeting, held January 23, is shown in the Placer Parkway Status Report under Agenda Item #J.

Discussion

SPRTA has gone far above and beyond the requirements for a Tier 1 environmental document, and done everything that the regulatory agencies have said would be needed for a LEDPA. At every turn, we have presented consistent and supportable data that supports Alternative #5 as the LEDPA. The regulatory agencies feel it is Alternative #1, yet offer no substantive data to support their selection.

This dilemma affects our ability to complete the Final EIS/EIR for release in summer 2009. Specifically, the FHWA cannot complete its clearance of the Final EIS, via a Record of Decision, without LEDPA concurrence from the regulatory agencies.

Up until now, the state environmental review process has been coordinated with the FHWA and the NEPA process. However, the SPRTA Board, as the lead agency, can act to independently conclude the state CEQA process, with or without a federal Final EIS clearance. With the concurrence of the transportation agencies and local jurisdictions, staff therefore recommends we resolve this dilemma by completing the CEQA process separately.

Staff requests the Board authorize the Executive Director to complete the Final EIR under CEQA for a summer 2009 release and to continue work with the regulatory agencies for LEDPA concurrence to sign off on the EIS. This continued work may require meetings with headquarters-level regulatory staff in Washington DC to resolve the LEDPA concurrence dispute.